

Foreign Exchange and Foreign Trade Act - Draft regulations announced by Ministry of Finance 14 March 2020

The Ministry of Finance in Japan has released the ministerial ordinances for the Foreign Exchange and Foreign Trade Act (FEFTA), which will lower the foreign investment threshold requiring prior notification from 10% to 1%.

The announcement states that the proposed amend aims to "further promote foreign direct investment (FDI) conducive to sound economic growth".

Under the terms of the draft regulations, foreign financial institutions, including asset managers, will have a blanket exemption for investments in in-scope companies as long they comply with certain conditions.

These conditions are:

1. Investors or their closely related persons will not become board members of the investee company
2. Investors will not propose transfer or disposition of important business activities of the investee company to the general shareholders meeting, and
3. Investors will not access non-public information about the investee company's technology that can impact national security.

Under these proposed regulations, if we comply with these conditions Asset Value Investors (AVI) will be exempted from any prior-notification requirements, with no imposed upper investment limit in companies with both core and designated non-core sectors. In normal circumstances we would expect to meet all these requirements.

The only additional obligation will be to file a post-investment report on stakes of 10% or more.

Investment Manager for AVI Joe Bauernfreund said "It would appear the new legislation is very unlikely to impact AVI's activities in Japan"

"We view this as a positive sign that the government continues to support corporate governance reform in Japan which is a strong indicator of the long-term potential."

The draft is to be finalized in April following a 30-day public comment period. At that time, the list of "in-scope" companies will be revealed.

Read the full Ministry of Finance announcement here:

https://www.mof.go.jp/english/international_policy/fdi/20200314.htm